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HOUSE BILL 452

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Dara Dana

AN ACT

RELATING TO FLOOD PLAIN MANAGEMENT; DESIGNATING THE AGENCY RESPONSIBLE FOR FLOOD PLAIN MANAGEMENT COORDINATION; CREATING THE OFFICE OF STATE FLOOD PLAIN ADMINISTRATION; MITIGATING FLOOD AND MUDSLIDE DAMAGE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. [NEW MATERIAL] DESIGNATED FLOOD PLAIN MANAGEMENT AGENCY--STATE FLOOD PLAIN ADMINISTRATOR. --

A. The department of public safety shall be responsible for flood plain management coordination.

B. There is created in the department of public safety the "office of state flood plain administration". The office of state flood plain administration shall be headed by the "state flood plain administrator" appointed by the secretary of public safety, and the administrator shall be a

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1 classified state employee. The state flood plain
2 administrator shall:

3 (1) act as a liaison between the state,
4 including the construction industries division and the
5 manufactured housing division of the regulation and licensing
6 department, political subdivisions, municipalities and
7 counties, and the appropriate federal entities, including the
8 federal emergency management agency, the United States army
9 corps of engineers, the United States geographical survey, the
10 United states bureau of reclamation, the natural resources
11 conservation service, the environmental protection agency and
12 the national flood insurance program;

13 (2) train and certify local flood plain
14 managers;

15 (3) conduct post-disaster damage assessments;

16 (4) work with the state flood plain
17 management association to establish training and certification
18 requirements for local flood plain managers;

19 (5) coordinate with the construction
20 industries division and the manufactured housing division of
21 the regulation and licensing department to accomplish uniform
22 compliance with federal insurance administration rules
23 pursuant to the national flood insurance program; and

24 (6) work with the New Mexico community
25 development council to ensure that a community development

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1 block grant is not used to fund a noncompliant project located
2 within a designated flood or mudslide hazard area.

3 C. The department of public safety shall
4 promulgate rules that set out training and certification
5 requirements for local flood plain managers that comply with
6 the federal insurance administration's and the federal
7 emergency management agency's rules promulgated pursuant to
8 federal law.

9 Section 2. [NEW MATERIAL] FLOOD CONTROL--PUBLIC LANDS.--
10 Counties or municipalities may apply to the state land office
11 for a right of way onto public lands for the purpose of
12 erosion control, bank and channel stabilization and the
13 reduction of flooding and sedimentation in downstream channels
14 to mitigate economic losses to communities situated downstream
15 of public lands.

16 Section 3. A new section of the Construction Industries
17 Licensing Act is enacted to read:

18 "[NEW MATERIAL] FLOOD PLAIN MANAGEMENT.--

19 A. The division shall not issue permits to
20 construct for the construction of new public buildings other
21 than renovations to existing public buildings within a
22 designated flood or mudslide hazard area unless the building
23 is elevated above base elevation as required by the federal
24 insurance administration rules pursuant to the national flood
25 insurance program.

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1 B. In a county or municipality that has not
2 adopted an ordinance pursuant to Subsection A of Section
3 3-18-7 NMSA 1978, the division shall work with the state flood
4 plain administrator to ensure compliance with federal
5 insurance administration rules pursuant to the national flood
6 insurance program "

7 Section 4. A new section of the Manufactured Housing
8 Act is enacted to read:

9 "[NEW MATERIAL] FLOOD PLAIN MANAGEMENT-- MANUFACTURED
10 HOMES. --

11 A. The division shall not issue a permit for the
12 installation of a manufactured home within a designated flood
13 or mudslide hazard area unless the manufactured home is
14 elevated above base elevation as required by federal insurance
15 administration rules pursuant to the national flood insurance
16 program.

17 B. In a county or municipality that has not
18 adopted an ordinance pursuant to Subsection A of Section
19 3-18-7 NMSA 1978, the division shall work with the state flood
20 plain administrator to ensure compliance with federal
21 insurance administration rules pursuant to the national flood
22 insurance program "

23 Section 5. Section 3-18-7 NMSA 1978 (being Laws 1975,
24 Chapter 14, Section 1) is amended to read:

25 "3-18-7. ADDITIONAL COUNTY AND MUNICIPAL POWERS-- FLOOD
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1 AND MUDSLIDE HAZARD AREAS-- BUILDING PERMITS-- LAND USE
2 CONTROL-- JURISDICTION-- AGREEMENT. --

3 A. For the purpose of minimizing or eliminating
4 damage from floods or mudslides in designated flood-prone
5 areas and for the purpose of promoting health, safety and the
6 general welfare, a county or municipality may by ordinance:

7 (1) designate and regulate flood plain areas
8 having special flood or mudslide hazards;

9 (2) prescribe standards for constructing,
10 altering, installing or repairing both public and private
11 buildings, including the installation of manufactured homes,
12 and other improvements under a permit system within a
13 designated flood or mudslide hazard area;

14 (3) review subdivision proposals and other
15 new developments within a designated flood or mudslide hazard
16 area to assure that:

17 (a) all such proposals are consistent
18 with the need to minimize flood damage;

19 (b) all public utilities and facilities
20 such as sewer, gas, electrical and water systems are designed
21 to minimize or eliminate flood damage; and

22 (c) adequate drainage is provided so as
23 to reduce exposure to flood hazards;

24 (4) require new or replacement water supply
25 systems or sanitary sewage systems within a designated flood

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1 or mudslide hazard area to be designed to minimize or
2 eliminate infiltration of flood waters into the systems and
3 discharges from the sewage systems into flood waters and
4 require on-site waste disposal systems to be located so as to
5 avoid impairment of them or contamination from them during
6 flooding; and

7 (5) designate and regulate floodways for the
8 passage of flood waters.

9 B. A county or municipality that implements an
10 ordinance pursuant to this section shall appoint a local flood
11 plain manager.

12 C. The person appointed to the position of local
13 flood plain manager shall attend a training session provided
14 by the state flood plain administrator and shall be required
15 to meet certification standards established by the department
16 of public safety in order to qualify for the position.

17 [~~B.~~] D. Any ordinance adopted pursuant to this
18 section shall substantially conform to the minimum standards
19 prescribed by the federal [~~insurance administration,~~
20 ~~regulation 1910 issued pursuant to Subsection 7(d), 79 Stat.~~
21 ~~670, Section 1361, 82 Stat. 587 and 82 Stat. 575, all as~~
22 ~~amended~~] emergency management agency's rules promulgated
23 pursuant to federal law.

24 [~~C.~~] E. In a county or municipality that has
25 adopted an ordinance pursuant to Subsection A of this section,

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1 an approved inspector pursuant to the Construction Industries
2 Licensing Act or the Manufactured Housing Act shall allow the
3 issuance of a permit only after certifying compliance with
4 both local flood plain ordinances and federal insurance
5 administration rules pursuant to the national flood insurance
6 program. A county or municipality shall have exclusive
7 jurisdiction over permits issued under its respective
8 ordinance and in accordance with this section [~~and so long as~~
9 ~~it is enforced by an approved inspector pursuant to the~~
10 ~~Construction Industries Licensing Act~~].

11 F. Notwithstanding Section [~~14-17-5 NMSA 1953~~
12 ~~3-18-6 NMSA 1978~~, when a municipality adopts an ordinance
13 pursuant to Paragraph (2) of Subsection A of this section, the
14 municipality's jurisdiction under this ordinance [~~shall~~] may
15 take precedence over a respective county ordinance within the
16 municipality's boundary and within the municipality's
17 subdividing and platting jurisdiction.

18 [~~D.~~] G. A county or municipality shall designate
19 flood plain areas having special flood or mudslide hazards in
20 substantial conformity with areas identified as flood- or
21 mudslide-prone by the federal insurance administration
22 pursuant to the national flood insurance program.

23 [~~E.~~] H. A municipality or county adopting any
24 ordinance pursuant to this section may enter into reciprocal
25 agreements with any agency of the state, other political

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1 subdivisions or the federal government in order to effectively
2 carry out the provisions of this section.

3 ~~[F.]~~ I. Within their respective ~~[jurisdiction, the~~
4 ~~environmental improvement agency or]~~ jurisdictions, the
5 department of environment and the construction industries
6 [commission] division and the manufactured housing division of
7 the regulation and licensing department may assist counties or
8 municipalities when requested by a county or municipality to
9 provide technical advice and assistance.

10 J. The construction industries division and the
11 manufactured housing division shall require its inspectors
12 approved pursuant to the Construction Industries Licensing Act
13 and the Manufactured Housing Act to undergo training and
14 certification in flood plain management from the state flood
15 plain administrator.

16 K. The department of public safety and the
17 construction industries division and manufactured housing
18 division may contract for, receive and utilize any grants or
19 other financial assistance made available by the United States
20 government or by any other source, public or private. "

21 Section 6. Section 9-6-5.1 NMSA 1978 (being Laws 1983,
22 Chapter 296, Section 7) is amended to read:

23 "9-6-5.1. PLANNING POWERS AND DUTIES OF SECRETARY OF
24 FINANCE AND ADMINISTRATION. --The secretary of [~~the department~~
25 ~~of]~~ finance and administration, in addition to the other

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1 powers and duties conferred:

2 A. shall review federal grant applications and
3 provide management assistance;

4 B. shall coordinate, in accordance with directives
5 from the governor's office of policy and planning, state
6 agency plans for economic, natural resource, energy resource
7 and human resource development;

8 C. shall provide aid to planning and development
9 districts in developing grant proposals and cooperate with
10 other local entities in developing grant proposals;

11 D. shall acquire, study and review all plans for
12 capital projects proposed by state agencies and render advice
13 on the plans. The secretary shall maintain long-range
14 estimates and plans for capital projects and develop standards
15 for measuring the need for and utility of proposed projects;

16 E. may contract for, receive and utilize any
17 grants or other financial assistance made available by the
18 United States government or by any other source, public or
19 private;

20 F. may provide planning and funding assistance to
21 units of local government, council of government
22 organizations, Indian tribal governments situated within New
23 Mexico and [to] nonprofit entities having for their purpose
24 local, regional or community betterment. The secretary,
25 incident to any such programs, may enter into contracts and

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1 agreements with such units of local government, council of
2 government organizations, Indian tribal governments, nonprofit
3 entities and the federal government and may participate in or
4 receive aid from any federal or private program in relation to
5 such a planning program or assistance;

6 G. shall confer with the state budget division of
7 the department of finance and administration in developing
8 comprehensive plans to assure coordination of planning and
9 budgeting functions;

10 H. shall coordinate the state clearinghouse review
11 process;

12 I. shall develop a status of the state report;

13 J. shall review and coordinate comment by state
14 agencies on draft environmental impact statements;

15 K. shall provide community development block grant
16 technical assistance to local governments;

17 L. shall administer, in consultation with and upon
18 advice and direction from the community development block
19 grant policy committee and the state flood plain
20 administrator, the program for the state community development
21 block grant program;

22 M shall serve as staff to the New Mexico
23 association of regional councils;

24 N. shall maintain a state planning library; and

25 O. shall provide planning assistance to county and

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1 multi-county districts relative to application by such
2 districts for financial assistance and for regional plan
3 development. "

4 Section 7. Section 9-14-4 NMSA 1978 (being Laws 1984,
5 Chapter 5, Section 1) is amended to read:

6 "9-14-4. COMMUNITY DEVELOPMENT BLOCK GRANTS. --

7 A. The community development block grant programs
8 shall be administered by the local government division of the
9 department of finance and administration.

10 B. The New Mexico community development council
11 shall determine the recipients and amounts of community
12 development block grant awards.

13 C. The New Mexico community development council
14 shall work with the state flood plain administrator to ensure
15 that a community development block grant is not used to fund a
16 noncompliant project located within a designated flood or
17 mudslide hazard area. "